

**MINUTES
CITY COUNCIL MEETING
May 5, 2015**

The Wayne City Council met in regular session at City Hall on Tuesday, May 5, 2015, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Cale Giese, Rod Greve, Jon Haase, Jennifer Sievers, Nick Muir, Jason Karsky, Matt Eischeid and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on April 23, 2015, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Mayor Chamberlain requested Council consideration to his appointment of Amy Miller as City Attorney.

Councilmember Sievers made a motion, which was seconded by Councilmember Brodersen, approving the appointment of Amy Miller as City Attorney.

Mayor Chamberlain noted that the Retainer Agreement he and Attorney Miller have agreed upon was distributed to them this evening.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Marlen Chinn, Police Chief, introduced Josh Fischer and Chris Peterson, the two new police officers who just completed training at the Academy.

Councilmember Sievers made a motion, which was seconded by Councilmember Greve, whereas, the Clerk has prepared copies of the Minutes of the meeting of April 21, 2015, and that each Councilmember has had an opportunity to read and study the same, and that the reading of the Minutes be waived and declared approved. Mayor Chamberlain stated the motion, and the

result of roll call being all Yeas, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: AMERITAS, SE, 2325.24; APPEARA, SE, 176.73; ARNIE'S FORD-MERCURY, SE, 199.31; AS CENTRAL SERVICES, SE, 448.00; BACKFLOW APPARATUS, SU, 1540.00; BLACK HILLS, SE, 542.83; BLUE CROSS BLUE SHIELD, SE, 29283.84; BOMGAARS, SU, 1956.71; BROWN SUPPLY, SU, 1315.10; CENTURYLINK, SE, 314.53; CITY OF PONCA, RE, 12648.84; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 247.00; CITY OF WAYNE, PY, 63807.52; CITY OF WEST POINT, RE, 18360.38; CITY OF WISNER, RE, 1911.70; COMMUNITY HEALTH, RE, 4.00; CONSOLIDATED MANAGEMENT, SE, 161.75; CUMMINS CENTRAL POWER, SU, 3859.38; DE LAGE LANDEN FINANCIAL, SE, 77.00; DUNRITE, SU, 147.91; DUTTON-LAINSON, SU, 3143.92; ECHO GROUP, SU, 1485.80; GERHOLD CONCRETE, SU, 248.88; GROSSENBURG IMPLEMENT, SU, 1888.98; HELENA CHEMICAL, SU, 1842.55; HOA SOLUTIONS, SE, 490.00; HOMETOWN LEASING, SE, 333.49; HUNTEL CABLEVISION, SE, 2502.05; ICMA, SE, 7105.79; IRS, TX, 23474.11; JACK'S UNIFORMS, SU, 650.55; JEO CONSULTING GROUP, SE, 29090.00; CITY EMPLOYEE, RE, 83.51; KELLY SUPPLY, SU, 138.43; KNIFE RIVER MIDWEST, SU, 855.90; KIMBERLY DEPEW, RE, 500.00; MSC INDUSTRIAL, SU, 84.79; N.E. NEB ECONOMIC DEV DIS, SE, 7742.12; CITY EMPLOYEE, RE, 599.04; NE DEPT OF REVENUE, TX, 3354.53; NE NEB INS AGENCY, SE, 92.00; NE PUBLIC HEALTH ENVIRONM, SE, 109.00; N.E. NE AMERICAN RED CROSS, RE, 19.62; NNPPD, SE, 4006.00; NORTHWEST ELECTRIC, SU, 161.52; NWOD, FE, 15.00; PIEPER & MILLER, SE, 2892.00; PONCA RURAL FIRE BOARD, RE, 3026.86; QUALITY 1 GRAPHICS, SU, 240.00; SAND CREEK POST & BEAM, SU, 9730.00; SD MEYERS, SE, 2568.00; STAPLES ADVANTAGE, SU, 199.64; STATE NEBRASKA BANK, RE, 54225.00; TAK, INC, SE, 72.00; THE TOOL DEPOT, SU, 153.89; TITAN MACHINERY, SU, 301.25; UNITED WAY, RE, 7.00; UTILITIES SECTION, FE, 720.00; VIAERO, SE, 237.51; VAN DIEST SUPPLY, SU, 880.80; VILLAGE OF WINSIDE, RE, 4046.18; WESCO, SU, 775.68; WESTERN OFFICE PRODUCTS, SU, 317.64; YOUNG, BILL, SE, 200.00; BARONE SECURITY SYSTEMS, SE, 716.04; CITY EMPLOYEE, RE, 1923.33; CHARTWELLS, SE, 6043.52; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 350.00; CITY OF WAYNE, RE, 40.00; CITY OF WAYNE, RE, 310.21; COPY WRITE PUBLISHING, SE, 380.09; CUMMINS CENTRAL POWER, SE, 168.88; DAVE'S DRY CLEANING, SE, 93.00; DIAMOND VOGEL PAINTS, SU, 323.35; DUTTON-LAINSON, SU, 315.66; EASYPERMIT POSTAGE, SU, 772.52; ECHO GROUP, SU, 61.74; FAITH REGIONAL, SE, 60.00; FASTENAL, SU, 25.33; FLOOR MAINTENANCE, SU, 226.94; GALE GROUP, SU, 46.48; GILL HAULING, SE, 170.50; GROSSENBURG IMPLEMENT, SU, 26.03; HAUFF MID-AMERICAN SPORTS, SU, 131.00; INDUSTRIAL TOOL, SU, 12.84; INGRAM BOOK CO, SU, 11.76; ISLAND SPRINKLER SUPPLY, SU, 255.44; JASON CAROLLO, SE, 35.00; KEITH DOESCHER, PY, 23304.89; KELLY SUPPLY, SU, 205.53; MARCO, SE, 126.36; MATHESON TRI-GAS, SU, 28.80; NHHS, FE, 7600.00; PAC N SAVE, SE, 1469.50; PENGUIN RANDOM HOUSE, SU, 160.00; PIEPER & MILLER, SE, 1157.80; QUALITY FOODS, SU, 7.50; SAND CREEK POST & BEAM, SE, 6000.00; SIMPLEXGRINNELL, SU, 837.90; SIOUX CONTRACTORS, SE, 1920.00; STADIUM SPORTING GOODS, SU, 112.00; STAPLES ADVANTAGE, SU, 56.26; STATE FIRE MARSHALM, SE, 320.00; THOMPSON-WEST PAYMENT, SU, 312.00; WAYNE COUNTY CLERK, SE, 156.00; WAYNE VETERINARY CLINIC, SE, 112.00; WESCO, SU, 315.65; WAPA, SE, 25631.23

Councilmember Sievers made a motion, which was seconded by Councilmember Haase, to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, he advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Administrator Johnson stated Patrick J. and Gretchen T. O'Reilly have made a written request for an agricultural deferral of the special assessments for Sanitary Sewer Extension District No. 2015-01 and Water Extension District No. 2015-01. These sanitary sewer and water improvements will be made on Grainland Road (Southview Addition).

Councilmember Giese made a motion, which was seconded by Councilmember Brodersen, approving the request of Patrick J. and Gretchen T. O'Reilly for an ag deferral of special assessments for Sanitary Sewer Extension District No. 2015-01 and Water Extension District No. 2015-01 (Grainland Road – Southview Addition). Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding the Final Plat for Frese Farms 1st Subdivision. The applicant, Hollis Frese, is seeking the request for the subdivision.

Joel Hansen, Zoning Administrator, stated the Planning Commission reviewed the Final Plat for Frese Farms 1st Subdivision and forwarded a recommendation to approve the same subject to the following "Findings of Fact:"

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Sievers introduced Resolution 2015-46, and moved for its approval; Councilmember Greve seconded.

RESOLUTION NO. 2015-46

A RESOLUTION APPROVING THE FINAL PLAT FOR FRESE FARMS 1ST SUBDIVISION.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing on the “Blight and Substandard Area Determination” known as the “Industrial Drive East Area.” This includes the former Pacific Coast Feather properties, as well as other parcels in that area.

Northeast Nebraska Economic Development District prepared the blight study.

No written or oral comments had been received by the City Clerk’s Office concerning the public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Sievers introduced Resolution No. 2015-47 and moved for its approval; Councilmember Haase seconded.

RESOLUTION NO. 2015-47

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAYNE, NEBRASKA, MAKING FINDINGS AND DECLARING PORTIONS OF THE CITY TO BE BLIGHTED AND SUBSTANDARD PURSUANT TO THE NEBRASKA COMMUNITY DEVELOPMENT LAW; ORDERING PUBLICATION OF NOTICE AND OTHER MATTERS.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Pat Melena, representing the “Rebuild Hank Project Committee” was present to update the Council on the project. They would prefer the look of the wooden grandstand; however, they understand there will be some upkeep to that.

Administrator Johnson was requesting Council consideration to authorizing staff to order the materials for the project (paint vs. stain).

The consensus of Council was that they preferred the stain, but did not want City staff (Public Works Department) having to do this work. Administrator Johnson stated that the summer part-time help could do this work.

Councilmember Muir made a motion, which was seconded by Councilmember Sievers authorizing staff to order the materials for the Rebuild Hank Project. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

George Parizek of JEO Consulting Group, engineers on the Wayne Aquatic Center Project, presented the plans and specifications of the project. The project total is \$2.9 million.

Administrator Johnson reminded Council that out of the \$2.9 million, \$50,000 was for bond costs and another \$50,000 was for the demolition of the old pool. These are not included in the JEO breakdown. Therefore, the cost of the pool should actually not go over \$2.8 million.

Mr. Parizek stated if the bids would come in higher than estimated, the bids can be rejected, or they could “value engineer” the overall project with the low bidder down to an acceptable level. You could see what the city forces could do in addition to what they are already doing to keep the number lower.

Some items were not included in the bidding process because the City could purchase those on their own cheaper than including them in with the project. These would be items like lap lanes, lifeguard chairs, flagpoles, starting blocks, etc.

If Council wanted to reduce the amount of the project total, a recommendation was to eliminate the slide and put that in as an alternate. The slide does add one additional guard or an attendant at the top.

Mr. Parizek advised the Council that the existing MDP in the community activity center does not have the required short circuit protection to add on the new load from the aquatic center, which adds additional costs to this project. It was a mystery to them as to why this was not upsized to begin with, in light of the planned future addition that was supposed to have happened at the Community Activity Center. That was an unforeseen cost, but there is no way to not address it now. It is a safety item.

The substantial completion date is May 20, 2016. The penalty for going beyond that date is somewhere between \$500 and \$700 per day.

Another added cost is the equipment area for the aquatic center now has a two wall, hard roofed structure. The concept that was originally voted on had a fabric shell structure.

Mayor Chamberlain stated shrinking the size of the deck could be another option to decrease the cost. He cautioned taking the slide out of the project.

Nancy Braden, Finance Director, advised the Council that approximately \$300,000 (\$75,000 per year) from the current sales tax has been set aside for the pool. The engineering fees are being paid out of that amount at this time.

Consensus was to bid the project as is and see where the bids come in.

Councilmember Eischeid introduced Resolution 2015-48, and moved for its approval; Councilmember Sievers seconded.

RESOLUTION NO. 2015-48

A RESOLUTION REAFFIRMING THE PROJECT ENGINEER AND APPROVING THE PLANS, SPECIFICATIONS AND ESTIMATE OF COST FOR THE "2016 WAYNE AQUATIC CENTER PROJECT" FOR SUBMISSION TO NEBRASKA HEALTH & HUMAN SERVICES TO REVIEW, AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would approve Amendment No. 6 to the “Communication Tower and Real Estate Lease Agreement with Alltel Communications of Nebraska, LLC, d/b/a Verizon Wireless.” This includes equipment modification to the lease.

Finance Director Braden advised the Council that there is a 5% annual increase in the lease payment.

Councilmember Sievers introduced Resolution No. 2015-49 and moved for its approval; Councilmember Giese seconded.

RESOLUTION NO. 2015-49

A RESOLUTION APPROVING AMENDMENT NO. 6 TO COMMUNICATION TOWER AND REAL ESTATE LEASE AGREEMENT WITH ALLTEL COMMUNICATIONS OF NEBRASKA, LLC, d/b/a VERIZON WIRELESS.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Marlen Chinn, Police Chief, and Jeff Carstens, representing Wayne State College, reviewed the proposed changes to the Interlocal Agreement to Share Law Enforcement Services between the City and Wayne State College. These changes come about because of changes to the Federal Regulations or Title IX regulations that the college has to abide by. Section 4(b) is what was amended.

Mr. Carstens advised the Council that the Federal Statute is Title IX of the Educational Amendments to the Civil Rights Act. Over the past year, regulations were promulgated relating to that statute that require higher education institutions, to the extent that is practicable, to maintain the confidentiality of victims who report sexual assault or sexual harassment on college campuses. This is in an effort to provide those victims with some sense of control over the process so that they can decide to what extent they report or whether they report issues to law enforcement or not. The College also maintains a responsibility for investigating and responding even though they may not be able to disclose that information to law enforcement. There are some stipulations and qualifications under which colleges can automatically report incidents of

sexual assault and sexual harassment to law enforcement if there is an eminent and serious threat of harm to an individual or the campus community. That would override a reporter's rights to privacy. The previous interlocal agreement stated that the City would investigate all crimes against persons, which would imply that all crimes against persons that are reported to the College would automatically be reported to law enforcement. This change in Federal Statute and regulations prevents that, because we cannot provide confidentiality to the extent that it is practicable if we automatically report all incidents to law enforcement. The interlocal agreement is not driving this change; it is the Federal legislative changes.

Councilmember Giese also requested that Section 9, Paragraph 4, be amended to read: Three Wayne State College student representatives selected by Student ~~Services~~ Senate will meet jointly....

Councilmember Giese introduced Resolution No. 2015-50 and moved for its approval, as amended (Section 9, paragraph 4 — striking the word “Services” and replacing it with the word “Senate”); Councilmember Muir seconded.

RESOLUTION NO. 2015-50

A RESOLUTION APPROVING INTERLOCAL AGREEMENT TO SHARE LAW ENFORCEMENT RESOURCES BETWEEN THE CITY OF WAYNE AND THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES, D/B/A WAYNE STATE COLLEGE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

No action was taken on proposed Resolution 2015-51 approving interlocal agreement with Wayne County for joint services.

Councilmember Eischeid introduced Ordinance No. 2015-20, and moved for approval of the third and final reading thereof; Councilmember Giese seconded.

ORDINANCE NO. 2015-20

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE III. AGRICULTURAL DISTRICTS, DIVISION 3. A-2 AGRICULTURAL RESIDENTIAL DISTRICT, BY ADDING SECTION 90-150 PERMITTED CONDITIONAL USES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Eischeid introduced Ordinance 2015-27, and moved for approval of the third and final reading thereof; Councilmember Brodersen seconded.

ORDINANCE NO. 2015-27

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 78, ARTICLE III, SECTION 78-134 RELATING TO PARKING TIME LIMITS OF 15 MINUTES, 30 MINUTES AND ONE HOUR; LOCATION; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Eischeid introduced Ordinance 2015-28, and moved for approval of the third and final reading thereof; Councilmember Greve seconded.

ORDINANCE NO. 2015-28

AN ORDINANCE OF THE CITY OF WAYNE, NEBRASKA, TO VACATE THE REAL ESTATE DEDICATED TO THE PUBLIC FOR USE AS A PUBLIC ROAD LOCATED IN THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, DESCRIBED AS: COMMENCING AT THE NORTHEAST CORNER OF LOT 1, MOHR'S INDUSTRIAL TRACT, SAID POINT BEING THE POINT OF BEGINNING; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 1 TO THE SOUTHEAST SIDE OF LOT 1, JORGENSEN SUBDIVISION; THENCE NORTHEASTERLY ALONG THE SOUTHEAST SIDE OF LOT 1, JORGENSEN SUBDIVISION TO THE SOUTH SIDE OF NEBRASKA HIGHWAY 35 ROW; THENCE EASTERLY ALONG THE SOUTH SIDE OF NEBRASKA HIGHWAY 35 ROW TO THE WEST SIDE OF THORMAN STREET ROW; THENCE SOUTHERLY ALONG THE WEST SIDE OF THORMAN STREET ROW 60 FEET TO THE POINT OF BEGINNING, CONTAINING 0.15 ACRES, MORE OR LESS, PART OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 26 NORTH, RANGE 4 EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, AND TO APPROVE THE RETENTION OF SAID REAL ESTATE AS ALLOWED BY NEB. REV. STAT. § 19-917.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

David Linder, representing the Wayne Cub Scouts, and Mark Klassen, representing the Wayne Boy Scouts, were present requesting Council consideration to allowing them to build a shelter house, fire ring, and pad for a port-a-potty at the Boy Scout Park.

Councilmember Brodersen made a motion, which was seconded by Councilmember Muir, approving the request of the Boy Scouts to build a picnic shelter at the Boy Scout Park. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:55 p.m.